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ABSTRACT

Unlike many proposed educational reforms in the United States, charter schools enjoy support from policymakers across the political spectrum, making such schools a major focus of public school reform among educators and legislators. The origin of charter schools and how these schools are affecting education is the subject of this background paper. It defines what charter schools are, from the idea's inception in the state of Minnesota, to the characteristics of charter schools. The paper presents arguments for and against these schools and examines the key financing issues confronting those who wish to start charter schools. A case study of charter school legislation in Nevada is presented to illustrate the process for one state. Research indicates that the two most important issues facing policymakers in this area are whether private schools should be allowed to convert to charter status, and thereby receive public money, and whether charter schools can meet community expectations while being held to state-set student performance levels. Such schools can afford educators the opportunity for freedom and innovation in teaching and school management but can present governance and oversight problems for local school districts and other sponsors. (Contains 10 references and an appendix.) (RJM)

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CHARTER SCHOOLS

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CHARTER SCHOOLS

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CHARTER SCHOOLS

INTRODUCTION

Charter schools continue to be a major focus of public school reform among educators and legislators. Discussions regarding the benefits and drawbacks to charter schools are occurring at all levels—federal, state, and local. Proponents and opponents of the charter school concept have developed extensive arguments over the merits of this recent education reform strategy. In addition, practically every major educational organization from the National Education Association to the National School Boards Association has weighed in on the issue.

Despite the relatively short history of the charter school movement, a great deal of legislative activity has already taken place. As of October 1996, 25 states and the District of Columbia had written formal charter school laws. In all, about 40 state legislatures have expressed interest in the charter school idea.[1]

Recent research has revealed significant differences in charter school laws from state to state. Despite the many differences, these laws are generally divided into two distinct categories: expansive statutes which generally encourage the creation of charter schools and restrictive measures which tend to discourage charter school formation. Many state laws contain a mixture of both expansive and restrictive components.

Charter schools have been established by individuals, teachers, nonprofit groups, businesses, and parents. Charter schools operate in a variety of settings—urban, suburban, and rural. In addition, charter schools may be organized in a wide variety of ways. For example, some may concentrate on particular themes (much like magnet schools) such as performing arts or science and technology. Others may emphasize a back-to-basics curriculum of reading, writing, and math.

As state legislators, governors, teachers, parents, and business leaders continue to debate the question of how best to reform our nation's schools, the concept of independent public schools focused less on traditional school management practices and more on student achievement and outcomes will continue to attract attention.

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[1]Information Clearing House, Education Commission of the States. Denver, Colorado. October 1996.

BACKGROUND

Since Minnesota passed the nation's first charter school legislation in 1991, this concept has become one of the most visible efforts at reforming the nation's education system. In the 20 states that had passed charter school laws by the end of 1995, more than 230 charter schools had opened.[2] The following table depicts the growth of legislative involvement in the charter school movement since 1991.

States With Charter School Laws					
1991	**1992**	**1993**	**1994**	**1995**	**1996**
Minnesota	California	Colorado Georgia Massachusetts New Mexico Wisconsin	Arizona Hawaii Kansas Michigan	Alaska Arkansas Delaware Louisiana New Hampshire New Jersey Rhode Island Texas Wyoming	Connecticut District of Columbia Florida Illinois North Carolina South Carolina

Source: Information Clearinghouse, Education Commission of the States, Denver, Colorado.

Defining Charter Schools

According to the Education Commission of the States (ECS), charter schools are independent public schools, formed by teachers, parents, or other community members. These schools are exempt from most state and local laws and policies in exchange for a written contract which specifies certain student achievement outcomes.[3] The following section (developed by ECS staff) provides an overview of charter schools.[4]

Charter schools create an alternative form of public schooling. The goal of charter schools is to lift restraints from public schools so they can pursue innovative teaching methods that will improve student performance. They are designed to give significant autonomy to individual schools and, in turn, to hold schools accountable for results.

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[2]McCotter, Sage. "Charter Schools." *Clearing House Issue Brief*. Denver, Colorado: Education Commission of the States, January 1996. p. 1.

[3]Bierlein, Louann A. "Emerging Issues in Charter School Financing." Denver, Colorado: Education Commission of the States, May 1996. p. 1.

[4]McCotter, Sage. "Charter Schools." *Issue Brief*. Denver, Colorado: Education Commission of the States, May 16, 1995. http://www.ecs.org/ecs/220e.htm.

A charter is essentially a contract, negotiated between those people starting the school and the official body authorized to approve the charter. The charter spells out how the school will be run, what will be taught, how success will be measured, and what students will achieve. As long as the school meets the terms of its charter, it is free from many of the rules and regulations that apply to other public schools. And, unlike other schools, if a charter school fails to meet these terms, the charter can be revoked and the school closed.

A charter proposal is written by a team of individuals interested in establishing a new school. The parties eligible to start a charter school vary from state to state. Nationally, charters have been granted to parents, teachers, community groups, and other organizations.

State law also determines the entity or entities that can approve a charter. In some states, it is the state superintendent. In most states, local school boards have the power to approve or deny charter applications. Some states, such as Michigan, allow institutions of higher education to approve charters.

There is usually a provision in each state's charter school law that describes what applicants can do if a request for a charter is denied. Some states allow alternative sponsoring organizations to step in and/or provide for an appeals process to different governing bodies.

Characteristics of Charter Schools

The manner in which charter schools are structured and operate is dependent on the type of legislation enacted. The most common method of characterizing charter school laws is by dividing them into two categories—expansive and restrictive. These two types of legislation differ in several important areas including the amount of community support for a school, the number of schools allowed, the length of the charters, and the level of difficulty involved with obtaining a charter.[5] Table No. 1 on pages 4 and 5 describes the differences between expansive and restrictive charter school laws on twelve characteristics.

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[5]McCotter, Sage. "Charter Schools." *Clearinghouse Issue Brief*. Denver, Colorado: Education Commission of the States, January 1996. p. 1.

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Table No. 1

Charter School Characteristics		
Issue	**Expansive**	**Restrictive**
Number of Schools	Permits unlimited (or very high) number of schools to be chartered.	Places a cap upon the number statewide or within a district.
Variety of Sponsors	Permits multiple types of sponsors—local school boards, state boards of education, and universities.	Restricts to one entity, usually the local school district.
Variety of Operators	Permits a variety of groups or individuals to start charter schools—teachers, parents or other citizens, nonprofit organizations, and businesses.	Restricts type of operator, usually licensed teacher or administrator.
Variety of Schools	Permits existing schools to convert and new schools to start from scratch.	Restricts to conversions of existing schools.
Appeals Process	Contains appeals mechanism which authorizes potential operators to appeal denied applications to a different authorizing body.	Single chartering entity—no appeals process.
Evidence of Support	Permits schools to be formed without documenting specified level of support from teachers, parents, and community members.	Requires documented level of support from (some or all) teachers, parents, and community members.
Waivers from Laws and Regulations	Blanket waivers from all state/district laws and regulations with the usual exceptions of electrical, fire, and safety codes, and state accountability reports.	Provides for no waivers or negotiated waivers on issue-by-issue basis with the sponsor.

Table No. 1
(Continued)

Charter School Characteristics		
Issue	**Expansive**	**Restrictive**
Exemption from Collective Bargaining	Provides charter schools with complete control over personnel decisions (hiring, firing, salary structure, et cetera).	Teachers and other personnel remain subject to district collective bargaining agreements.
Local Autonomy	Charter schools are legally autonomous entities—they may sue and be sued, acquire property, and so on.	Charter schools remain under school district jurisdiction in these matters.
Funding Process	100 percent of per pupil funding automatically follows students enrolled in charter schools.	Amount of funding is negotiated with district or is set at a fixed percentage rate.
Fiscal Autonomy	Schools have control over their own budgets.	Restrictions or procedures set forth for budget decisions.
Start-Up Funding	Provides for start-up funds or seed money. Requires an appropriation section allocating such funds.	No extra funding for charter school start-up costs.

Source: Compiled by Legislative Counsel Bureau, Research Division staff.

Arguments For and Against Charter Schools

Proponents argue that charter schools provide numerous advantages over traditional public schools in the delivery of quality education to students. Conversely, opponents argue that charter schools have the potential to adversely affect educational opportunities for children who remain in the school district and present financial and legal risks to districts. These arguments are summarized in Table No. 2.

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Table No. 2

Advantages of Charter Schools	Disadvantages of Charter Schools
According to advocates, charter schools:	According to opponents, charter schools:
1. Allow public schools to be created outside the existing education system;	1. Cannot be exempt from some requirements, for example health and safety laws;
2. Encourage creativity and innovation by reducing excessive bureaucracy and regulation;	2. Might use public money to support private-schooling or home-schooling;
3. Increase the range of educational options available to children and parents;	3. Are generally small, isolated institutions not readily accessible to most students;
4. Promote results or "outcomes" rather than "inputs" such as the amount of time students spend in classes;	4. Operate on a small scale which means that any benefits they have will affect only a few students;
5. Incorporate market forces in public education; and	5. Will constitute a net financial loss for the school district;
6. Involve parents and the community directly in the operation of schools.	6. Have the potential to become elite institutions, doing nothing to serve at-risk youth; and
	7. School boards can still be legally responsible for charter schools which they do not completely control.

Source: McCotter, Sage. "Charter Schools Issue Brief." Denver, Colorado: Education Commission of the States, May 16, 1995.

CHARTER SCHOOL FINANCING

The degree of fiscal autonomy for charter schools depends primarily on whether the school operates under expansive or restrictive legislation. Schools established under restrictive statutes remain under the legal and financial control of a school district and, therefore, present few finance problems. However, those schools operated under more

expansive legislation are often given significant legal and fiscal autonomy.[6] The autonomous status of some charter schools raises important questions about funding for these schools as well as other public schools in the same district.

Key Financing Issues

Recent research on charter school financing conducted by Louann A. Bierlein, an education policy advisor to the Governor of Louisiana, and Mary Fulton, a Policy Analyst with the ECS, has uncovered a number of critical issues faced by schools, districts, and states.[7] The following are selected finance issues that may be of interest to those debating charter schools in Nevada:

- Limited access to local operating funds. Most state charter school laws restrict access to some or all local district operating funds. Many charter schools receive only the state portion of funding allocated to operations. In some states, statutes guarantee charter schools only a minimum percentage of state or local revenues (for example, 80 percent in Colorado);

- No access to capital funds. Charter schools have not been granted access to local district funds for buildings and major equipment. In addition, they do not have the ability to issue revenue bonds. Charter schools must use some of their operating funds to obtain, equip, and maintain facilities;

- Limited access to district-based state or federal funding. Because certain state formula funding allocations and some grant programs are based on district characteristics, charter schools often cannot access such funding;

- Cash flow problems. Many charter schools, especially small start-up schools, do not have sufficient cash flow remaining from the previous year or the last revenue payment to pay expenses that come due between payments from state and local sources;

- Special education funding. The high costs of educating special education students potentially places added burdens on charter schools. Such schools must follow all state and federal special education laws including those requiring the provision of adequate services for special needs students, despite more limited resources.

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[6]Bierlein, Louann A., and Mary F. Fulton. "Charter School Financing." *Policy Brief*. Denver, Colorado: Education Commission of the States, May 1996. p. 1.

[7]Bierlein, Louann A., and Mary F. Fulton. "Charter School Financing." *Policy Brief*. Denver, Colorado: Education Commission of the States, May 1996. pp. 1-4.

Considerations should be given to how charter schools can cover the extraordinarily high costs associated with these students;

- Paperwork and procedures. State education departments frequently require elaborate procedures and substantial amounts of paperwork for maintaining student counts and accounting functions. Charter schools often need to hire additional staff for these duties;

- District fixed costs. Charter schools often attract students from several schools in a district or districts. School districts have certain fixed costs regardless of the number of students in attendance. However, it may be difficult for districts to reduce some costs even though they no longer serve some students. Since most of the per-pupil-funding allocation follows the student to the charter school, districts, while serving less students, also have less funds available to cover these fixed costs;

- Additional costs. While charter schools receive less per pupil funding than other schools, they also attract some private and home-schooled students, adding to the total number of students the state and district must educate; and

- Equitable funding. Charter schools in many states are expected to demonstrate a higher level of student achievement with less funding than other public schools. This type of school funding structure may create an uneven playing field for charter schools.

CHARTER SCHOOL LEGISLATION IN NEVADA

The concept of charter schools has recently caught the attention of Nevada lawmakers. Legislation allowing the formation of charter schools was introduced during the 1995 Session. In addition, a legislative committee studying the structure of school districts in Nevada considered the option of charter schools during the 1995-1996 interim.

Action by the 1995 Legislature

The 1995 Nevada Legislature considered establishing charter schools for the first time. Senate Bill 31, like legislation in many states, contained elements of both expansive and restrictive legislation. For example, the bill was restrictive in that it:[5]

- Limited the number of charter schools to one per county in counties with a population of more than 35,000;

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[5]Senate Bill 31, Second Reprint.

- Allowed only one entity—school district boards of trustees—to sponsor charter schools; and

- Set the amount of funding at a fixed percentage of the per pupil amount rather than allow 100 percent of per student funding to follow pupils to the charter school.

Senate Bill 31 contained more expansive language on many characteristics by allowing the following:[9]

- Any person or public body to operate a charter school;

- The creation of new schools or the conversion of existing ones;

- An appeals process for applicants whose first application was denied;

- The formation of schools without a documented level of parental or community support;

- Waivers from most state and local regulations;

- An exemption from collective bargaining;

- A large degree of fiscal autonomy granted to the school's board of directors; and

- Start-up funding for new charter schools.

The bill passed the Senate but died in the Assembly Committee on Education.

The Interim Study on Reconfiguring School Districts

During the 1995-1996 interim, the Legislative Commission's Subcommittee to Study the Reconfiguration of School Districts in Nevada (Senate Concurrent Resolution No. 30, File No. 161, *Statutes of Nevada 1995*) received a report from the consultant hired by the Legislature to study the issue of school district boundaries. This report contained information and analysis on the option of charter schools as a method to improve school-based organization and accountability.[10] In their report, the consultants provided legislators with information on a number of aspects of charter schools including: a

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[9]Senate Bill 31, Second Reprint.

[10]Guthrie, James W., et al. *Nevada School District Organization and Control: Meeting the Challenges of Growth and Diversity*. Berkeley, California: Management Analysis and Planning Associates, August 1996. pp. 56-64.

concise definition; the advantages and disadvantages of such schools; and a description of expansive and restrictive types of legislation, including specific state examples.

Based on the information provided by the consultant and testimony from numerous groups and individuals both in support of and in opposition to the concept, this subcommittee forwarded recommendations for establishing charter schools to the 1997 Legislature.

CONCLUSION

Unlike many proposed educational reforms, charter schools enjoy support from policymakers across the political spectrum. These independent public schools are also gaining support from educators and teachers unions. According to the ECS, this broad appeal makes charter schools one of the fastest growing education policy innovations.[11]

Despite the popularity of charter schools, important issues should be considered. Perhaps the two most important issues for policymakers are:

- First, whether private schools should be allowed to convert to charter status thereby receiving public money; and

- Second, whether charter schools can meet community expectations while being held to state-set student performance levels.[12]

In addition, while charter schools often afford educators the opportunity for freedom and innovation in teaching and school management, they can present governance and oversight problems for local school districts and other sponsors.

Legislators considering charter school laws are faced with balancing all of these considerations with needs specific to their states. Initial evaluations appear to favor expansive laws as a way to encourage the creation of such schools.[13] Other early reports

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[11]Newman, Frank and Alex Medler. "Can Charter Schools Pressure All Schools to Improve?" *Commission Connection. Volume 2, Number 11.* Denver, Colorado: Education Commission of the States, November 1996.

[12]Newman, Frank and Alex Medler. "Can Charter Schools Pressure All Schools to Improve?" *Commission Connection. Volume 2, Number 11.* Denver, Colorado: Education Commission of the States, November 1996.

[13]McCotter, Sage. "Charter Schools." *Clearinghouse Issue Brief.* Denver, Colorado: Education Commission of the States, January 1996. p. 3.

indicate improved achievement for many charter school students.[14] As more states adopt charter school statutes, additional information concerning the educational effectiveness of various models will be forthcoming.

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[14]Bierlein, Louann A. *Charter Schools: Initial Findings*. Denver, Colorado: Education Commission of the States, March 1996. p. 5.

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APPENDIX

"Charter School Laws as of August 1996"

Charter School Laws as of August 1996																										
	Expansive Laws																	Restrictive Laws								
	AZ 94	DE 95	NC 96	FL 96	NH 95	SC 96	MA 93	MI 94	TX 95	IL 96	CA 92	DC 96	NJ 96	MN 91	CO 93	LA 95	CT 96	WI 93	HI 94	WY 95	NM 93	RI 95	GA 93	KS 94	AR 95	AK 95
Nonlocal board sponsor available OR appeals process exists.	X	X	X X	X	X	X	X	X	X		X	X	X X	X X	X		X				X	X				
Any person or group can organize a charter proposal.	X	X	X	X	X	X	X	X	A	X	X	X	B	X	X	X	X	X		X				X		X
Exemptions from most laws, rules, and policies.	X	X	X	X	X	X	X		X	X	X	X		X		X		C	X							
School has control over funds from student counts.	X	X	X	X	X	X	X	X	X	X	X	X	B	X	D	X	X		X							
Legal autonomy.	X	X	X	X	X	X	X	X	X	X	X	X	B	X	D	X	X									
No or high limits on the number of charter schools that can be formed.	X	X	X	X	X	X		X		X			X		X			X	X	X			X		X	
Some percent of noncertified teachers without a waiver.	X	X	X	X	X	X	X	E	X	X	X	X				X										
Total "Stronger" Components.	7	7	7	7	7	7	6	6	6	6	6	6	5	5	5	5	4	3	3	2	1	1	1	1	1	1

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Notes:

A. Organizers are limited to public or private higher education institutions, a nonprofit organization, or a governmental entity.

B. Teachers or parents within a district by themselves or in conjunction with any in-state higher education institution or private entity may establish a charter school; such schools are eligible for at least 90 percent of the local levy budget per pupil, and district collective bargaining provisions automatically apply to converted public schools, while salaries for new charter schools must fall within the range established by the district in which the school is located.

C. Automatically exempt from most state laws and rules, but not from local policies.

D. Legally, Colorado's charter schools are to remain part of the local school district and to receive at least 80 percent of their funds, however, many are operating quite autonomously.

E. In Michigan, the issue of noncertified teachers is still unclear, and certification is required except in university-sponsored schools where higher education faculty can teach.